

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
CHARLOTTESVILLE DIVISION**

<b>JOSEPH DRAEGO,</b>	)	
	)	<b>CASE NO. 3:16-cv-00057</b>
	)	
<b>v.</b>	)	
	)	<b><u>ORDER</u></b>
<b>CITY OF CHARLOTTESVILLE, VIRGINIA,</b>	)	
	)	<b>By: Norman K. Moon</b>
<b><i>Defendant.</i></b>	)	<b>United States District Judge</b>

In accordance with the accompanying memorandum opinion, it is **ORDERED** that:

(1) Defendant’s motion to dismiss/for summary judgment is **DENIED**. (Dkt. 4).

(2) Plaintiff’s motion for a preliminary injunction is **GRANTED**. (Dkt. 8). Pursuant to Federal Rule of Civil Procedure 65(d), the City of Charlottesville (including its Council, officers, and employees) is **PRELIMINARILY ENJOINED** from enforcing—against Plaintiff and any other speaker—Rule D.9(g) of the Charlottesville City Council Meeting Procedures, insofar as Rule D.9(g) prohibits “defamatory attacks on . . . groups” during “matters by the public” comment periods at City Council meetings. This injunction does not affect any other rule of the City Council.

The Court preliminarily finds that the group defamation ban in Rule D.9(g) violates the First and Fourteenth Amendments of the U.S. Constitution, both facially and as applied to Plaintiff. On the current record, the Rule likely offends the First Amendment because it (A) is subject to strict scrutiny and lacks a compelling governmental interest, and (B) is overbroad. The Rule likely violates the Due Process Clause because it is vague.

Thus, Plaintiff is likely to succeed on the merits of his free speech and due process challenges to the Rule, and he would suffer irreparable harm if the Rule was not preliminary enjoined. Harm to the City, if any, is minimal, and the public interest heavily favors protecting

the constitutional rights of Plaintiff and other speakers.

(3) Plaintiff's request to waive security for the injunction is **GRANTED**.

The Clerk of the Court is directed to send a copy of this Order to all counsel of record and to *pro se* Plaintiff.

Entered this 18th day of November, 2016.

  
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NORMAN K. MOON  
UNITED STATES DISTRICT JUDGE